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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/593,571	06/14/2000	Jochen Heinz	1174	7648

7590 07/09/2004

Striker Striker & Stenby  
103 East Neck Road  
Huntington, NY 11743

EXAMINER

LAM, ANN Y

ART UNIT PAPER NUMBER

1641

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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0704

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

The advisory action mailed on January 29, 2003 is hereby vacated. The final Office action will be sent with the decision on the petition dated July 28, 2003.



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#26

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JAN 15 2004

STRIKER, STRIKER & STENBY  
103 EAST NECK ROAD  
HUNTINGTON, NY 11743

In re Application of  
Jochen Heinz et al  
Serial No.: 09/593,571  
Filed: June 14, 2000  
Attorney Docket No.: 1174

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: PETITION DECISION  
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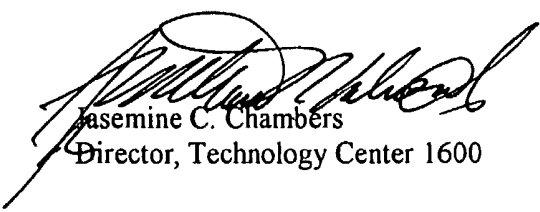
This is in response to the petition under 37 CFR 1.181, filed July 28, 2003, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Final Office action to applicants on September 11, 2002, setting a three month shortened statutory period for reply. Upon failure to receive a reply the examiner mailed a Notice of Abandonment to applicants on June 30, 2003. Applicants state that the Office action was never received and provide statements and copies of docket records establishing that the Office action was never received. In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

**The application will be forwarded to the examiner for mailing of a new Office action.**

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number.

  
Jasmine C. Chambers  
Director, Technology Center 1600

SM

<b>Office Action Summary</b>	Application N .	Applicant(s)	
	09/593,571	HEINZ ET AL.	
	Examiner	Art Unit	
	Ann Y. Lam	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Petition Decision

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Larson, 3,940,003, for the same reasons as set forth in Office action dated March 28, 2002.

### ***Response to Arguments***

Applicant's arguments filed June 25, 2002 have been fully considered but they are not persuasive. Applicant argues that "either the needle structure (34) is or is not part of the syringe shown in Fig. 5 of Larson, et al. If it is not part of the syringe, then the disclosure in relation to Fig. 5 does not anticipate either claim 18 or claim 20, because the tip (62) is not beveled or cross-cut in a plane that is slanted relative to the axis of the syringe body, as claimed in claim 18 or claim 20. If the needle structure with the beveled tip is considered part of the syringe shown in Fig. 5, then it is not in "one-piece" with the syringe body, as required by claim 18 or 20", see page 3, line 20 through page 4, line 3 of Applicant's argument.

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Examiner however reasserts that syringe body (64) is in one-piece with the plastic hollow spike (34), just like Applicant's syringe body (1) is in one-piece with the plastic hollow spike (9), as described in the appendix to the amendment filed October 29, 2001. Moreover, the tip (62) is shown a beveled or cross-cut as claimed by Applicant.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on T-F 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (703)308-3552. The fax phone numbers for

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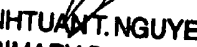
Art Unit: 3763

the organization where this application or proceeding is assigned are (703)305-3590 for regular communications and (703)306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

A.L.

September 7, 2002

  
ANH TUAN T. NGUYEN  
PRIMARY EXAMINER

7/9/02